

## CHAPTER 396

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**HEALTH AND ENVIRONMENT**

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**HOUSE BILL 17-1079**

BY REPRESENTATIVE(S) Kennedy, Hansen, Young;  
also SENATOR(S) Coram and Jahn.

**AN ACT**

**CONCERNING THE CONTINUED COLLECTION OF FEES FOR WHOLESALE FOOD MANUFACTURING AND STORAGE, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.**

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** In Colorado Revised Statutes, 25-5-426, **amend (4); repeal (6); and repeal and reenact, with amendments, (2)** as follows:

**25-5-426. Wholesale food manufacturing and storage - definitions - legislative declaration - fees - cash fund.** (2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "BREW PUB" HAS THE SAME MEANING AS SET FORTH IN SECTION 12-47-103 (4).

(b) "BREWERY" HAS THE SAME MEANING AS SET FORTH IN SECTION 12-47-103 (5).

(c) "DIETARY INGREDIENT" MEANS ONE OR ANY COMBINATION OF A VITAMIN, MINERAL, HERB OR OTHER BOTANICAL, AMINO ACID, AND A SUBSTANCE SUCH AS AN ENZYME, ORGAN TISSUE, GLANDULAR, OR METABOLITE.

(d) "DIETARY SUPPLEMENT" MEANS A PRODUCT TAKEN BY MOUTH THAT CONTAINS A DIETARY INGREDIENT OR A NEW DIETARY INGREDIENT INTENDED TO SUPPLEMENT THE DIET.

(e) "DISTILLERY" OR "DISTILLER" HAS THE SAME MEANING AS SET FORTH IN SECTION 12-47-103 (7).

(f) "GRAIN" MEANS A SMALL HARD FRUIT OR SEED PRODUCED BY A CEREAL GRASS AND THE SEEDS OF SUCH PLANTS AS A WHOLE.

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

(g) "GRAIN STORAGE FACILITY" MEANS ANY ESTABLISHMENT, STRUCTURE, OR STRUCTURES UNDER ONE MANAGEMENT AT ONE GENERAL PHYSICAL LOCATION THAT HOLDS GRAIN WITHOUT FURTHER MANUFACTURING OR PROCESSING AFTER HARVEST.

(h) "MANUFACTURING OR PROCESSING" MEANS MAKING FOOD FROM ONE OR MORE INGREDIENTS, OR SYNTHESIZING, PREPARING, TREATING, MODIFYING, OR MANIPULATING FOOD, INCLUDING FOOD CROPS OR INGREDIENTS. EXAMPLES INCLUDE: CUTTING, PEELING, TRIMMING, WASHING, WAXING, EVISCERATING, RENDERING, COOKING, BAKING, FREEZING, COOLING, PASTEURIZING, HOMOGENIZING, MIXING, FORMULATING, BOTTLING, MILLING, GRINDING, EXTRACTING JUICES, DISTILLING, LABELING, OR PACKAGING.

(i) "NEW DIETARY INGREDIENT" MEANS A DIETARY INGREDIENT THAT WAS NOT SOLD IN THE UNITED STATES AS A DIETARY SUPPLEMENT BEFORE OCTOBER 15, 1994.

(j) "NONPROFIT FACILITY" MEANS A CHARITABLE ENTITY THAT PROVIDES FOOD TO THE PUBLIC, INCLUDING FOOD BANKS AND NONPROFIT FOOD FACILITIES. TO QUALIFY AS A NONPROFIT FACILITY, THE ENTITY SHALL BE EXEMPT FROM PAYING FEDERAL INCOME TAX UNDER THE FEDERAL INTERNAL REVENUE CODE.

(k) "SPIRITUOUS LIQUORS" HAS THE SAME MEANING AS SET FORTH IN SECTION 12-47-103 (36).

(l) "WHOLESALE FOOD MANUFACTURER" AND "STORAGE FACILITY" MEAN A FACILITY THAT MANUFACTURES, PRODUCES, PACKS, PROCESSES, TREATS, PACKAGES, TRANSPORTS, OR HOLDS HUMAN FOOD, INCLUDING DIETARY SUPPLEMENTS. THESE TERMS INCLUDE, WITHOUT LIMITATION, ANY REPACKER, RESHIPPER, SHELL STOCK SHIPPER, AND SHUCKER-PACKER, AS DEFINED IN SECTION 25-4-1803 (8), (9), (12), AND (13), RESPECTIVELY.

(m) "WINERY" HAS THE SAME MEANING AS SET FORTH IN SECTION 12-47-103 (40).

(4) (a) Beginning July 1, 2003, and on or before July 1 of each year thereafter, the owner of any wholesale food ~~manufacturing~~ MANUFACTURER or storage facility shall ~~register such facility with~~ SUBMIT AN APPLICATION TO THE DEPARTMENT. ~~The registration of Each wholesale food manufacturing MANUFACTURER or storage facility shall be accompanied by an annual registration fee as set forth in paragraph (b) of this subsection (4); except that an owner whose gross income is less than fifteen thousand dollars per year, a nonprofit facility, and a grain storage facility shall register but shall not be required to pay the fee. Such~~ PAY AN ANNUAL APPLICATION FEE OF ONE HUNDRED DOLLARS, PLUS ANY ADDITIONAL REGISTRATION FEE SPECIFIED IN SUBSECTION (4)(b) OF THIS SECTION; EXCEPT THAT AN APPLICATION FEE IS NOT REQUIRED FOR A NONPROFIT FACILITY. THE APPLICATION FOR registration shall be IS valid for one year or for the portion of the fiscal year that remains ~~if a registration is granted~~ IF AN APPLICATION IS SUBMITTED after July 1 of any fiscal year. If a registration AN APPLICATION is valid for only a portion of a fiscal year, ~~there shall be no AN APPLICATION FEE reduction of any fee~~ IS NOT required by this section. Each ~~registration shall expire~~ APPLICATION EXPIRES ON JUNE 30 OF THE STATE FISCAL YEAR IN WHICH THE ~~registration is granted~~ APPLICATION IS SUBMITTED.

~~(b) Subject to paragraph (a) of this subsection (4)~~ IN ADDITION TO THE APPLICATION FEE A FACILITY IS REQUIRED TO PAY PURSUANT TO SUBSECTION (4)(a) OF THIS SECTION, THE SCHEDULE FOR ANNUAL REGISTRATION FEES FOR WHOLESALE FOOD MANUFACTURERS OR STORAGE FACILITIES IS AS FOLLOWS:

~~(I) Upon registration of a small wholesale food manufacturer or storage facility, the department shall collect a fee of one hundred eighty-five dollars~~ A REGISTRATION FEE IS NOT REQUIRED FOR A NONPROFIT FACILITY, GRAIN STORAGE FACILITY, BREWERY, BREW PUB, WINERY, OR A DISTILLER OF SPIRITUOUS LIQUORS.

~~(II) Upon registration of a medium wholesale food manufacturer or storage facility, the department shall collect a fee of three hundred seven dollars~~ A WHOLESALE FOOD MANUFACTURER OR STORAGE FACILITY WITH GROSS ANNUAL SALES OF LESS THAN ONE HUNDRED FIFTY THOUSAND DOLLARS SHALL PAY THE DEPARTMENT A REGISTRATION FEE OF SIXTY DOLLARS.

~~(III) Upon registration of a large wholesale food manufacturer or storage facility, the department shall collect a fee of three hundred ninety dollars~~ A WHOLESALE FOOD MANUFACTURER OR STORAGE FACILITY WITH GROSS ANNUAL SALES OF ONE HUNDRED FIFTY THOUSAND DOLLARS OR MORE SHALL PAY THE DEPARTMENT A REGISTRATION FEE OF THREE HUNDRED DOLLARS.

~~(c) UPON ISSUING A CERTIFICATE OF FREE SALE, the department shall collect a fee of one hundred twenty-eight FIFTY dollars. for the issuance of a certificate of free sale.~~

~~(V) (Deleted by amendment, L. 2008, p. 1000, § 1, effective July 1, 2008.)~~

~~(6) This section is repealed, effective July 1, 2017.~~

**SECTION 2. Appropriation.** For the 2017-18 state fiscal year, \$491,510 is appropriated to the department of public health and environment for use by the division of environmental health and sustainability. This appropriation is from the wholesale food manufacturing and storage protection cash fund created in section 25-5-426 (5), C.R.S., and is based on an assumption that the division will require an additional 3.0 FTE. To implement this act, the division may use this appropriation for the environmental health programs.

**SECTION 3. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 6, 2017